

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12072 of 2015

DATE OF DECISION: AUGUST 31, 2015

ICAR AND OTHERS

...PETITIONERS

VERSUS

JAGDISH PRASAD AND ANOTHER

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes/No

PRESENT: MR. R.K.SHARMA, ADVOCATE FOR THE PETITIONERS.
MR. A.K.BHARDWAJ, ADVOCATE FOR RESPONDENT NO.1.

M. JEYAPPAUL, J.

1. The writ petitioners have challenged the quashment of Indian Council of Agricultural Research (ICAR) letter dated 9.5.2012 withdrawing the category barrier exemption granted to respondent No.1.

2. Respondent No.1 Jagdish Prasad who had the qualification of B.A.(Sociology) was appointed as Fieldman in Grade T-1 on 29.9.1983. He was promoted from Grade T-1 to T-2 w.e.f. 1.7.1989. He was placed in T-1-3 w.e.f. 1.1.1995 after removing the category barrier. Thereafter, he was promoted to T-4 w.e.f. 1.1.2000. Now he is occupying the post in Category T-5.

3. The writ petitioners contended that respondent No.1 did not possess essential qualification for Category T-2. His name was wrongly recommended removing category barrier from Category T-I-3 to category T-II-3. The *bona fide* mistake was duly rectified by the writ petitioners through impugned communication, it was pleaded.

4. Heard the submissions made on either side.
5. The fact remains that respondent No.1 possessed only B.A. Degree in Sociology. The necessary qualification prescribed for promotion from Category I to Category II was 3 years' Diploma/Bachelor's Degree "in the relevant field". In other words, respondent No.1 did not possess a Bachelor's Degree "in the relevant field". But it is an admitted fact that the competent Authority not only granted exemption from category barrier, but also promoted him from T-2 to T-I-3 and thereafter he was promoted to T-4 and T-5. The competent Authority was duly assisted by proper Assessment Committee to assess the work performance and recommended his promotion.
6. In other words, it is not a *bona fide* error committed by the competent Authority, but a conscious and well informed decision taken by it. Respondent No.1 would have retired from service on 30.9.2013 had he continued in service.
7. The writ petitioners cannot, at this distance of time, review the exemption from category barrier granted to respondent No.1 who had got very many promotions thereafter.
8. Therefore, in our considered view, the Tribunal has rightly granted the relief prayed for by respondent No.1. There is no merit in the writ petition. Consequently, the writ petition stands dismissed.

(M. JEYAPPAUL)
JUDGE

August 31, 2015
Gulati

(DARSHAN SINGH)
JUDGE